



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,187	03/24/2006	Jay Cousins	2754U.003	6318
21917 7590 03/17/2009 MCHALE & SLAVIN, P.A. 2855 PGA BLVD PALM BEACH GARDENS, FL 33410				
EXAMINER				
DEMEREE, CHRISTOPHER R				
ART UNIT		PAPER NUMBER		
3782				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/531,187

**Applicant(s)**

COUSINS, JAY

**Examiner**

CHRISTOPHER DEMEREE

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 4/10/2006

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoenberger (US 2399604 A).

Regarding claims 1, 4, 5, 15, 16 and 21, Schoenberger teaches a receptacle constructed from a single sheet of material having a plurality of fold lines (14-16) enabling said sheet of material to be transformed from a flat condition into said container by folding said sheet of material about said fold lines, said container comprising a base (10); a plurality of side walls (11 and 12) that extend from said base and define a rim of said container, said side walls being joined at each end thereof by corners, wherein each corner includes a flap (13) formed from two fold lines (15) extending from said rim and meeting at a point-junction with said base (see Fig. 1), said flap having an outside part that extends into one side wall and an inside part that extends into the adjoining side wall (see Fig. 5), and a middle part between said inside and outside parts; and a first integral formation on one of said inside or outside part (21) that is interlocked with a second integral formation (17) on the other said inside or outside part, to retain said flap in a folded condition. Examiner considers the constructed receptacle to be bowl-like.

Regarding claim 2, Schoenberger teaches a receptacle wherein said first integral formation is a tag (13a; see Fig. 5) on said rim of said inside part of the corner, said tag is tucked into the space between said middle part and said outside part of the corner (see Fig. 5). Examiner considers formation 13a to be a tag.

Regarding claim 3, Schoenberger teaches a receptacle wherein at least two corners are immediately adjacent one another (13) to form a composite corner and said outside part of said adjacent corners of said composite corner adjoin each other. Examiner notes that the corners are constructed from two distinct, adjacent panels (13).

Regarding claims 6-9, Schoenberger teaches a receptacle wherein said rim of one of said inside and outside parts of said corner has a tab (13a) and said first notch (21) is defined between said tab and one of said inside or outside parts, said first notch opening at the fold line (16) between said inside or outside part and said middle part where it joins said rim (see Fig. 5).

Regarding claims 1 and 10, Schoenberger teaches a receptacle constructed from a single sheet of material having a plurality of fold lines (14-16) enabling said sheet of material to be transformed from a fiat condition into said container by folding said sheet of material about said fold lines, said container comprising a base (10); a plurality of side walls (11 and 12) that extend from said base and define a rim of said container, said side walls being joined at each end thereof by corners, wherein each corner includes a flap (13) formed from two fold lines (15) extending from said rim and meeting at a point-junction with said base (see Fig. 1), said flap having an outside part that extends into one side wall and an inside part that extends into the adjoining side wall

(see Fig. 5), and a middle part between said inside and outside parts; and a first integral formation on one of said inside or outside part (17) that is interlocked with a second integral formation (21) on the other said inside or outside part, to retain said flap in a folded condition;

wherein said first integral formation is a hook on said inside part of the corner, said hook being formed by a V-shaped cut in said inside part, which cut has two arms (18 and 19), said first arm proximate to said middle part extending to said rim and said second arm furthest from said middle part terminating at a distance from said rim, said second arm being aligned with the fold (16) between said middle part and said outside part when said flap is in its folded position, said fold between said outside and said middle parts being relieved from said rim to a depth substantially coincident with the top of said second arm of said V-shaped cut when said flap is in its folded position, and so that said hook, when engaged with the fold between the middle and outside parts of said corner retains said flap in its folded condition (see Fig. 5). In this embodiment, Claims 1 and 10, Examiner interprets the first integral and second integral formations to be switched compared to the embodiment described in the earlier rejections.

Regarding claim 11, Schoenberger teaches a receptacle wherein said relieving of said fold between said outside and said middle part parts is achieved by cutting off said corner formed by said fold at said rim thereof (cutoff at 22).

Regarding claims 12 and 13, Schoenberger teaches a receptacle wherein a hinge is formed between said hook and said inside part of said corner by a V-shaped fold (folds 15 and 16) line having a root and two limbs (corner panels 13), the root

coinciding with the top of said second arm of said V-shaped cut in said inside part, and said limbs extending to said rim (see Fig. 1). Examiner considers a fold to also be a hinge.

Regarding claim 14, Schoenberger teaches a receptacle wherein the other of said limbs of said V-shaped fold line (16) is substantially perpendicular to said second arm (18) of said V-shaped cut (see Fig. 5). Examiner notes that fold 16 is substantially perpendicular to leg 18 when the receptacle is in the configuration depicted in Figure 5.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenberger.

Regarding claim 17, Schoenberger discloses the claimed invention except for teaching that the container is made in a substantially hexagonal shape. It would have been an obvious matter of design choice to make Schoenberger's receptacle in a hexagonal shape, since such a modification would have involved a mere change in the shape of the container and the shape is only ornamental in function. A change in shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

5. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenberger in view of Stahlecker (US 4471901 A).

Regarding claims 18-20, Schoenberger teaches everything except the receptacle comprising a waterproof polypropylene material. Stahlecker teaches a container comprising a polypropylene coating (Col 2 lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Schoenberger's receptacle to include a polypropylene coating in order to seal the paperboard substrate, as taught by Stahlecker.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keys (US 613520 A); Webb (US 762966 A) and Comstock (US 3054550 A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782